

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| THE APPLICATION OF LOUISVILLE GAS |) | |
| AND ELECTRIC COMPANY FOR AN ORDER |) | |
| AUTHORIZING A DEVIATION FROM 807 |) | CASE NO. 9530 |
| KAR 5:041 SECTION 16(4)(a) AND (b) |) | |

O R D E R

On March 20, 1986, the Louisville Gas and Electric Company ("LG&E") filed an application requesting authorization to deviate from the requirements of 807 KAR 5:041, Section 16 ("Section 16") (4)(a) and (b), pertaining to the methodology to be used in the sample testing of kilowatt-hour meters and the requirement that no meter remain in service longer than 25 years without being tested for accuracy. LG&E also requested approval of a proposed meter test plan that would bring it into compliance with these regulations by the end of calendar year 1987.

The Commission performed a service inspection of LG&E in July, 1985, and the inspection report, dated August 14, 1985, noted that meters were in service which had not been tested within the 25 year limit imposed on utilities participating in the sample meter testing program. A utility which allows a meter to remain in service longer than 25 years without being tested is in violation of Section 16(4)(b). Upon receiving the inspection report, LG&E initiated informal discussions with the Commission regarding the necessary measures to correct the meter

testing violations. Those discussions resulted in this application seeking a deviation.

LG&E based its request for a deviation on the grounds that it believed that the Commission's regulations would be amended to delete the requirement of testing every 25 years and therefore its sample test plan made no provision for this requirement.

In its May 27, 1986, response to the Commission's information request, LG&E alleges that Section 16(4)(a), setting forth a table of meters to be tested annually, was based on an underlying assumption that more than one percent of the sample meters will not test within the permissible two percent accuracy limits. Since this assumption has proved to be false for LG&E, it argues that the table of meters to be tested annually is mathematically inconsistent with Section 16(4)(b) requiring meters to be tested every 25 years. LG&E's response also states that the number of meters in service longer than 25 years without being tested was 24,779 as of December 31, 1985. By December 31, 1986, this number will increase to 28,784, almost ten percent of LG&E's total electric meters.

The Commission finds no merit in LG&E's argument. Although the table in Section 16(4)(a) sets forth the percent of meters to be tested annually, Section 16(4)(b) states:

Provided, however, that no meter shall remain in service without periodic test for a period longer than twenty-five (25) years. (emphasis added)

The prefatory language of Section 16(4)(b) clearly limits the length of time between meter tests that could otherwise result from adhering to the table in Section 16(4)(a). Despite the fact that LG&E has tested the requisite percent of meters as per the

table in Section 16(4)(a), the words "Provided, however..." in Section 16(4)(b) explicitly modify the table rendering those percentages to be minimum annual requirements.

The Commission further notes that its regulations applicable to sample meter testing have been in effect since LG&E began participating in the sample testing program in 1961. While LG&E's belief that the Commission would amend its regulations may have been reasonable during its initial participation in the sample testing program, such a belief, 25 years later, is untenable.

The Commission will not permit such blatant violations of its regulations. The requirement of testing meters at 25 year intervals is to protect both the ratepayers and the utility from inaccurate meters. The public interest demands that meters be periodically tested to prevent over- and underbilling.

Based on the evidence of record, the Commission finds that as of December 31, 1985, LG&E was in violation of Section 16(4)(b) by failing to test 24,779 meters and the violations will continue unless approval is granted for LG&E's proposed compliance plan. LG&E has proposed to eliminate its backlog of untested meters by the end of 1987 by initially replacing the untested meters and then subsequently testing them in its meter shop.

The Commission finds LG&E's plan to bring itself into compliance with meter testing regulations is reasonable under the circumstances of this case. However, the magnitude of the existing violations demands that the Commission impose a penalty on LG&E. Upon review of the magnitude and severity of the

violations the Commission further finds that a proposed penalty of \$5,000 should be imposed for the numerous violations cited herein. The proposed penalty will become final 20 days from the date of this Order unless, before the expiration of the 20 days, LG&E requests a hearing to present evidence to justify a reduction or elimination of the penalty.

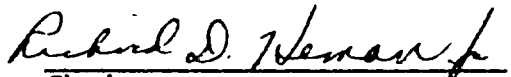
The Commission also finds that no grounds exist to grant a deviation from Section 16(4)(a) because that regulation sets forth only the minimum percentage of meters to be tested annually, not a maximum. This is supported by (1) its permissive language allowing a utility, at its option, to include the meters tested in the sample as part of the total percent of meters required to be tested; and (2) the requirements of Section 16(4)(b) prohibiting any meter in service longer than 25 years without being tested.

IT IS THEREFORE ORDERED that:

1. A proposed penalty of \$5,000 be and it hereby is imposed on LG&E for violations of 807 KAR 5:041 Section 16(4)(b).
2. The proposed penalty shall become final, due and payable 20 days from the date of this Order unless within that time LG&E requests a hearing on the penalty. Said penalty shall be made payable to the Treasurer, Commonwealth of Kentucky, and mailed to Ms. Leigh Hutchens, Public Service Commission, P. O. Box 615, Frankfort, Kentucky 40602.
3. LG&E be and it hereby is granted a deviation from complying with 807 KAR 5:041 Section 16(4)(b) until December 31, 1987.

Done at Frankfort, Kentucky, this 22nd day of July, 1986.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director